



A BILL FOR AN ORDINANCE

RELATING TO THE TRANSIT MANAGEMENT SERVICES CONTRACTOR.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this bill is to address contracting with a private, nonprofit corporation to serve as the transit management services contractor.

SECTION 2. Section 13-4.1, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 13-4.1 Authorization.

The department shall provide a special transit service and establish policies and guidelines for its operation. The policies and guidelines shall conform to the short-range transit plan and any update. The department shall contract [the] with a private, nonprofit corporation [established under] pursuant to Article 8 to manage, operate, and maintain the special transit service on behalf of the city. The department shall submit to the council the policies and guidelines for the special transit service, together with revenues anticipated and costs estimated to be incurred, with all annual budget and supplementary appropriation requests."

SECTION 3. Section 13-6.2, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 13-6.2 Contracts for management, operation and maintenance of city bus system, special transit service and/or supplemental services.

The department shall contract with [the] a private, nonprofit corporation [established under] pursuant to Article 8 to manage, operate, and maintain the city bus system and the city special transit service on behalf of the city. The department may contract with private entities, including [the] a private, nonprofit corporation [established under] pursuant to Article 8, to manage, operate, and maintain the supplemental bus service and supplemental special transit service on behalf of the city."



A BILL FOR AN ORDINANCE

SECTION 4. Section 13-8.2, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 13-8.2 Retention of private, nonprofit corporation to serve as transit management services contractor.

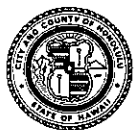
(a) The department [shall:

- (1) Retain the private, nonprofit corporation which was formed at the request of the department pursuant to ordinance and which served as the bus management services contractor since January 1, 1993; and
- (2) Enter into a transit management services contract with such private, nonprofit corporation.

To fulfill the city's requirements, the department shall expand the obligations and responsibilities of the private, nonprofit corporation in accordance with this section.] shall enter into a transit management services contract with a private, nonprofit corporation to serve as the transit management services contractor, and to manage, operate, and maintain the city bus system and the city special transit service on behalf of the city. The transit management services contractor may be an entity formed at the request of the department pursuant to ordinance, so long as the entity complies with the requirements of this chapter.

(b) As a condition of the transit management services contract, the private, nonprofit corporation shall provide in its articles of incorporation that:

- (1) The purpose of the corporation is to manage, operate, and maintain the city bus system, special transit service and other transit-related services on behalf of and for the city;
- (2) The election of directors of the corporation shall be subject to the approval of the department, which approval shall not be unreasonably withheld;
- (3) The department may remove any director of the corporation when the department determines that the removal is required to fulfill the best interests of the city bus system or special transit service; and
- (4) The corporation shall conform with applicable ordinances.



A BILL FOR AN ORDINANCE

[Any necessary amendments shall be filed with the state director of commerce and consumer affairs, with an effective date of or prior to April 1, 1997.]

- (c) [From April 1, 1997, the private, nonprofit corporation shall be deemed the special transit service contractor and the transit management services contractor for the purposes of this chapter.] Award of a transit management services contract shall be conducted in accordance with the Hawaii public procurement code, Chapter 103D, Hawaii Revised Statutes, as amended, and the administrative rules adopted thereunder.
- (d) This section shall not be construed as precluding the department from contracting with others to provide bus and special transit services to supplement the city bus and special transit systems."

SECTION 5. Section 13-8.3, Revised Ordinances of Honolulu 1990, as amended ("Contract for management, operation, and maintenance of city bus system and special transit service"), is amended by amending subsections (a) and (b) to read as follows:

- "(a) In accordance with Sections 13-8.1, 13-8.2, 13-6.2, and 13-4.1, the department shall contract with [the] a private, nonprofit corporation to manage, operate, and maintain the city bus system and special transit service on behalf of the city. Under the contract, the private, nonprofit corporation:
 - (1) Shall be an independent contractor in relation to the city;
 - (2) Shall be the employer of record of bus and special transit service personnel, who shall be deemed employees of the private, nonprofit corporation under 29 USC Section 152(3), and who shall not be deemed public employees under HRS Chapter 89;
 - (3) Shall be deemed an instrumentality of the city for appropriate purposes other than for labor and employment purposes;
 - (4) Shall manage, operate, and maintain the city bus system and special transit service in the most efficient and effective manner and in accordance with sound management practices; and
 - (5) Shall have no purpose, except the management, operation, and maintenance of the city bus system and special transit service and the provision of transit-related services on behalf of and for the city.



A BILL FOR AN ORDINANCE

- (b) The term of [the] each contract shall be for a fixed period and set by the department, provided that such term shall not be less than five years, nor more than seven years. This subsection shall not be construed as precluding award of the transit management services contract to the same entity for multiple consecutive terms. The term may encompass a fiscal period for which council appropriations are unavailable. If so, the contract shall include conditions specifying that:
- (1) The term of the contract is subject to the availability of council appropriations;
 - (2) The council is not obligated to appropriate funds for the contract; and
 - (3) The failure of the council to appropriate funds for the contract shall not constitute a breach by the department or city."

SECTION 6. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 9(2013)

A BILL FOR AN ORDINANCE

SECTION 7. This ordinance shall take effect upon approval and shall apply to the transit management services contract existing and in effect as of the effective date of this ordinance. Such contract may continue in effect for no more than three years after the effective date of this ordinance.

INTRODUCED BY:

Ann H. Kobayashi

DATE OF INTRODUCTION:

FEB 14 2013

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

KIRK CALDWELL, Mayor
City and County of Honolulu

FILED
FEB 14 2015
PURSUANT TO RCW Sec. 1-2.4